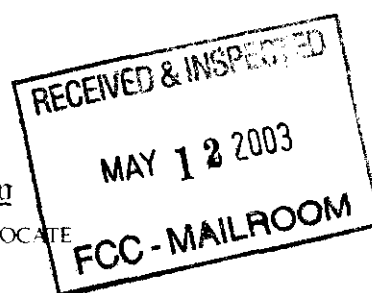




State of New Jersey  
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SEEMA M. SINGH, ESQ.  
 Acting Ratepayer Advocate  
 and Director

May 5, 2003

Marlene Dortch  
 Office of the Secretary  
 Federal Communications Commission  
 445 12<sup>th</sup> Street, SW  
 Washington, D.C. 20554

**Re: In the matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, Further Notice of Proposed Rulemaking  
 FCC 03-62  
 CG Docket No. 02-278**

Dear Secretary Dortch:

The New Jersey Division of the Ratepayer Advocate ("Ratepayer Advocate") submits the following comments in regard to the Notice of Proposed Rulemaking ("NPRM") in the above captioned matter issued by the Federal Communications Commission ("FCC") on March 25, 2003.<sup>1</sup> The NPRM seeks comments on how the FCC can maximize consistency between its regulations under the Telephone Consumer Protection Act of 1991 ("TCPA"), the Telemarketing Sales Rule adopted by the Federal Trade Commission's ("FTC"), and the recently enacted Do Not Call Implementation Act ("Act"). Specifically, the NPRM seeks comments on how the goals and principles of the Act should be implemented, and how to harmonize the requirements of Do-Not-Call with the mandates of the TCPA. The Ratepayer Advocate submits that:

1. the Do-Not-Call registry should not preempt state Do Not Call registry laws; instead, state and federal authorities should be able to share registry information and determine how best to prosecute any alleged infractions;
2. consumers should be able to register once by contacting either the FCC, the FTC or the state's Do Not Call registry (the registries would share databases), and file a complaint with any of those agencies;

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<sup>1</sup> *In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, Further Notice of Proposed Rulemaking, FCC 03-62, CG Docket No. 02-278 (Released March 25, 2003).*

enforcement measures provide by both the states and the federal agencies, and given that the states are well positioned to receive and act on complaints because they are closer to the consumer and are aware of trends in their areas, if Do-Not-Call databases were shared then the fullest protection to consumers could be provided. The state's right to prosecute, however, should not be impaired merely because of the national registry nor due to the availability of federal prosecutions.<sup>8</sup> There should be shared jurisdiction.

The FTC's national Do-Not-Call registry has been funded by the 2003 omnibus budget and the registry will be open for registrations on July 1, 2003.<sup>9</sup> The Act, however, requires the FCC to report to the House and Senate on several aspects of the national registry operations, including the number of consumers who have placed their telephone numbers on the registry and the number of persons paying fees for access to the registry and the amount of such fees.<sup>10</sup> The Ratepayer Advocate submits that to the extent there are appropriations currently allocated to cover the costs of the registry operations and administration, the rules should provide that there is no cost to consumers to register. As violations are prosecuted, and fines collected, and other fees are collected, these proceeds should be remitted to the national registry fund for its further use in operations, administration and prosecution.

Respectfully Submitted,

SEEMA M. SINGH, ESQ.  
RATEPAYER ADVOCATE

By: 

Jose Rivera-Benitez, Esq.

Assistant Deputy Ratepayer Advocate

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<sup>8</sup> The National Association of Regulatory Utility Commissioners (NARUC) has also endorsed this position. See, Comments, *In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CC Docket No. 92-90 (filed November 22, 2002).

<sup>9</sup> See, NPRM, fn. 18, referencing the Consolidated Appropriations Resolution, 2003, H.J. Res. 2, Pub. L. No. 108-07 (2003).

<sup>10</sup> See, Do-Not-Call Act Sections 4(b)(2) and (3).